

AUG 31 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FERMIN LEE HAWEE,

Defendant - Appellant.

No. 08-10255

D.C. No. 3:07-cr-01010-EHC-1

MEMORANDUM *

Appeal from the United States District Court
for the District of Arizona
Earl H. Carroll, District Judge, Presiding

Submitted August 20, 2009**

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Fermin Hawee appeals the sentence imposed following his guilty plea to
assaulting a federal officer in violation of 18 U.S.C. § 111.

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

Hawee contends that the district court erred in treating the sentencing Guidelines as mandatory, and its application of U.S.S.G. § 3A1.2(c)(1) constituted impermissible double-counting.

As part of his written plea, Hawee waived his right to appeal his conviction and sentence. Hawee makes no argument that his plea agreement and appeal waiver were invalid. The district court's plea colloquy confirms that Hawee knowingly and voluntarily waived the right to appeal. Accordingly, we enforce the appeal waiver. *See United States v. Bibler*, 495 F.3d 621, 624 (9th Cir. 2007).

AFFIRMED.